

## MEMORANDUM OF UNDERSTANDING

Vermont Environmental Board and  
Agency of Environmental Conservation

Referral of Applicants

### PURPOSE

It is the purpose of this Memorandum of Understanding to establish a system for the referral of permit applicants by the Agency of Environmental Conservation ("the Agency") to the Environmental Board ("the Board") and vice versa.

### BACKGROUND

The Agency administers several distinct permit programs under the authority of existing statutes and rules. Some of those permit programs - Public Buildings, Subdivisions, Campgrounds, Mobile Home Parks - are administered, in part, through the Agency's regional offices. Other programs - discharges to State waters, air pollution control, solid waste, stream flow and alteration, lake and pond management, dams, and certain major projects in permit programs assigned to regional offices - are administered by the Agency's Montpelier staff. The Board administers the Act 250 program through its nine district commissions which have staffs assigned to five regional offices.

Through the use of "project review sheets" and daily communication, the Agency and Board staffs in regional offices "cross-refer" permit applicants: Agency district administrators refer developers to the Board's district coordinators for Act 250 permit review and the coordinators refer developers to Agency district administrators and Montpelier staff for review under various Agency permit programs.

However, presently there is no effective system for the referral of developers by the Agency's Montpelier staff to the Board for a determination of the need for Act 250 review. This can lead to confusion within the development community and inconsistency in State permit reviews. By this Memorandum, the Board and the Agency agree to establish a cross-referral system between the Act 250 program and Agency permit programs, especially those administered in Montpelier.

#### UNDERSTANDING

It is understood and agreed that:

1. The Board and the Agency are mutually interested in maintaining coordination and consistency in the treatment of individuals who may be required to obtain permits from both the Agency and the Board.
2. The Regional Office staffs of the Board and the Agency will continue to "cross-refer" applicants by way of "project review sheets"; that is, district coordinators and district administrators will prepare project review sheets with respect to proposed developments and use those sheets as a method of referring developers to the Act 250 program and programs administered by the Agency in its regional offices and in Montpelier.
3. Administrators of programs administered from the Agency's Montpelier offices will refer applicants to the Board's district coordinators when an Act 250 permit may potentially be required. Applicants may be referred to the Board's Montpelier office if considerations of time and applicant convenience are better served. Agency staff will notify Board staff of all such referrals.

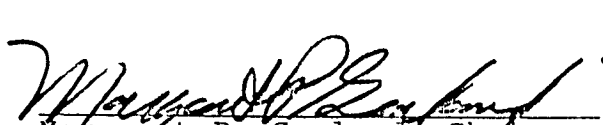
4. No decision by Agency personnel concerning Act 250 jurisdiction, by way of project review sheets or otherwise, will be considered conclusive unless approved by a district coordinator or the Board's executive officer. No decision by Board personnel concerning the applicability of Agency programs to a development will be considered conclusive unless approved by a district administrator or other responsible Agency representative.

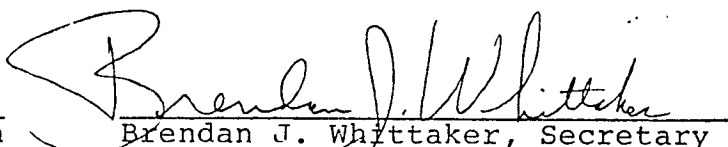
5. Board and Agency staff will perform applicant referral under this Memorandum as early as possible in the Board or Agency review process. The Board and Agency will cooperate in developing a protocol for maintaining an efficient cross-referral system.

6. Agency of Environmental Conservation's Water Resources investigators will, during the course of evaluating alleged water resources violations, attempt to also determine whether a concurrent or related Act 250 violation also exists. Any such Act 250 violations will be promptly brought to the attention of the Protection Division.

7. This Memorandum shall continue until either the Board or the Agency, upon 60 days advance notice, elects to terminate this agreement.

Dated at Montpelier, Vermont this 22<sup>nd</sup> day of February, 1984.

  
Margaret P. Garland, Chairman  
Environmental Board

  
Brendan J. Whittaker, Secretary  
Agency of Environmental  
Conservation